IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 221 OF 2006

Sham S. Barwade & Ors. ..Petitioners

versus

Nemchand H. Rajpal ..Respondent

Shri G. S. Kondhalkar for the Petitioners.

Shri Rahul S. Kate for the Respondent.

CORAM : DR. D.Y.CHANDRACHUD,J.
DATE : 10TH FEBRUARY,2006

P.C. :

1. Heard learned counsel for the parties. Rule, returnable forthwith. Learned Counsel for the Respondent waives service. By consent, taken up for hearing and final disposal.

2. In a suit seeking relief for carrying out tenantable repairs, the Defendants moved an application for amendment of the written statement. With the assistance of the learned counsel, I have perused the proposed amendment. The proposed amendment seeks to place on record the state of the

property. There is no reason why the application should not be allowed. The suit came to be instituted prior to the amendment of the Civil Procedure Code and hence the amended provisions which came into effect on 1.7.2002, are not attracted.

3. Having regard to the settled position in law, I am of the view that the application for amendment should be allowed. The impugned order of the learned Trial Judge is accordingly quashed and set aside. The Application at Exhibit 34 for amendment of the written statement shall stand allowed. The Petition is accordingly disposed of. There shall be no order as to costs.

(DR. D. Y. CHANDRACHUD, J.)